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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/699,108	10/31/2003	Pierre-Emmanuel Cavarec	1006-28.CIP	1872
7590	12/17/2004		EXAMINER	
John L. Rogitz, Esq. ROGITZ & ASSOCIATES Suite 3120 750 "B" Street San Diego, CA 92101			LEYKIN, RITA	
			ART UNIT	PAPER NUMBER
			2837	
			DATE MAILED: 12/17/2004	

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/699,108	CAVAREC ET AL.
	Examiner	Art Unit
	Rita Leykin	2837

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on _____.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-23 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>03/2003-07/2004</u> . | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
6) <input type="checkbox"/> Other: _____. |
|---|--|

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nagayasu US # 5,164,896.

With respect to claims 1, 4, 5, 6, 7, 8, 11, 12, 14, 15, 16, 17, 18, 22 and 23, Nagayasu does not teach specifically the use of his invention for moving window covering assembly, as it claimed, however the movement required to follow such a path is adequately disclosed as a positioning system that moves a movable element and detects the movable element in a plurality of positions spaced along linear, circular or otherwise shaped path, (see column 1, lines 5-10). With reference to Fig. 1, Nagayasu teaches the positioning element that includes an actuator 11 driven by motor 12 to move a movable element 13 between predetermined positions A and B. A magnet 14 that is fixed on movable element 13. Position detectors 15 and 16 that are disposed in the stop position A and B respectively. When the position detectors 15,16 detect the magnet 14 the positioning elements detect the movement of movable element 13.

In Fig. 14, 15a-15d, Fig. 21, 22a-22e, 28, 29a-29d Nagayasu discloses the use of corresponding magnetic elements 15, 16 or 30- 33 or 135a-135c or 155a-155d as

position detecting devices that are magnetically coupled to output signals when rotating element rotates to determine at least the position of rotor and also upon reaching limiting position braking the rotation, (see column 6, lines 5-28, column 9, lines 3-60).

With respect to claims 2, 10 and 21, in Fig. 21 and 22(a-e), examiner takes an official notice that use of pick-up coils for detection of magnetic flux is well known in the art. Nagayasu does not specifically teach the use of pick-up coils juxtaposed with the rotating member. However, Nagayasu shows magnetic sensitive element 154 and circuits 155A-155D that serve to determine positions A-D. As illustrated, these circuits comprise permanent magnets and yokes and have magnetic circuit portions 156A-156D, for actuating the magnetic sensitive elements 154. The magnetic circuit portions represent the magnetic fluxes in the gap. This phenomena detection is adequate to detection of flux linkage via pick-up coil.

With respect to claim 3 and 13 examiner takes second official notice that use of power battery to power motor in claimed environment is well known.

Hence, it has been obvious to one of ordinary skills in the art, at the time invention was made to use Nagayasu invention to provide a powered assembly for moving the object between first and second configuration, such as open-closed, or up-down and plurality of position in between the upper and lower limitations and use permanent magnets to control position and brake the rotation of movable element.

The reason is to provide a flexible positioning actuator that can stop the movable element at any desirable position along the path.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rita Leykin whose telephone number is (571)272-2066. The examiner can normally be reached on Monday-Friday 8:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Martin can be reached on (571)272-2107. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Rita Leykin
Primary Examiner
Art Unit 2837

R.L.

